

§ 107.9

(3) State the full legal name, principal name of business and mailing address of the principal;

(4) Provide that it remains in effect until withdrawn or replaced by the principal;

(5) State the legal name and mailing address of the agent; and

(6) Bear a declaration of acceptance duly signed by the designated agent.

(c) *Method of service.* Service of any process, notice, order, decision, or requirement of the Associate Administrator may be made by registered or certified mail addressed to the agent with return receipt requested or in any other manner authorized by law. If service cannot be effected because the agent has died (or, if a firm or a corporation ceases to exist) or moved, or otherwise does not receive correctly addressed mail, service may be made by publication in the FEDERAL REGISTER.

[Amdt. 107-2, 41 FR 7509, Feb. 19, 1976, as amended by Amdt. 107-24, 56 FR 8621, Feb. 28, 1991; 66 FR 45377, Aug. 28, 2001]

§ 107.9 Public docket room.

There is established in the RSPA offices at 400 7th Street, SW., Washington, DC, a public docket room in which there is available for public inspection and copying:

(a) Copies of notices of proposed rulemaking issued by the RSPA or its predecessor agency, including advance notices, together with the comments received thereon during rulemaking proceedings, copies of any related FEDERAL REGISTER notices, final rules, petitions for reconsideration, and decisions issued in response to petitions for reconsideration;

(b) Applications for exemptions from the Department of Transportation's regulations governing the transportation of hazardous materials, including supporting data, memoranda of any informal meetings with applicants, related FEDERAL REGISTER notices, comments received thereon during the public comment period and copies of decisions issued granting or denying applications for exemptions;

(c) Applications for preemption and waiver of preemption determinations under subpart C of this part, together with the comments received thereon,

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related documents filed with the RSPA, copies of related FEDERAL REGISTER notices, and rulings, determinations and orders issued in response to those applications;

(d) Records of compliance order proceedings and copies of RSPA compliance orders;

(e) Appeals filed under this part and RSPA decisions issued in response to those appeals; and

(f) Such other information pertaining to the RSPA's hazardous materials program required by statute to be made available for public inspection and copying and any information which the RSPA determines should be made available to the public.

[Amdt. 107-3, 41 FR 38170, Sept. 9, 1976, as amended by Amdt. 107-8, 45 FR 81571, Dec. 11, 1980; Amdt. 107-24, 56 FR 8622, Feb. 28, 1991]

§ 107.11 Service.

(a) Each order, notice, or other document required to be served under this part shall be served personally or by registered or certified mail, except as otherwise provided.

(b) Service upon a person's duly authorized representative constitutes service upon that person.

(c) Service by registered or certified mail is complete upon mailing. An official United States Postal Service receipt from the registered or certified mailing constitutes prima facie evidence of service.

[Amdt. 107-3, 41 FR 38170, Sept. 9, 1976]

§ 107.13 Subpoenas, witness fees.

(a) The Administrator, RSPA, the Chief Counsel, Research and Special Programs Administration, or the Official designated to preside over a hearing convened in accordance with this part, may sign and issue subpoenas either on his own initiative or, upon an adequate showing that the information sought will materially advance the proceeding, upon the request of any person participating in that proceeding.

(b) A subpoena may require the attendance of a witness, or the production of documentary or other tangible evidence in the possession or under the control of the person served, or both.

(c) A subpoena may be served personally by any person who is not an interested person and is not less than 18 years of age, or by certified or registered mail.

(d) Service of a subpoena upon the person named therein shall be made by delivering a copy of the subpoena to such person and by tendering the fees for one day's attendance and mileage as specified by paragraph (f) of this section. When a subpoena is issued at the instance of any officer or agency of the United States, fees and mileage need not be tendered at the time of service. Delivery of a copy of a subpoena and tender of the fees to a natural person may be made by handing them to the person, leaving them at his office with the person in charge thereof, leaving them at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein, by mailing them by registered or certified mail to him at his last known address, or by any method whereby actual notice is given to him and the fees are made available prior to the return date. When the person to be served is not a natural person, delivery of a copy of the subpoena and tender of the fees may be effected by handing them to a registered agent for service, or to any officer, director, or agent in charge of any office of the person, or by mailing them by registered or certified mail to that representative at his last known address or by any method whereby actual notice is given to the representative and the fees are made available prior to the return date.

(e) The original subpoena bearing a certificate of service shall be filed with the RSPA official having responsibility for the proceeding in connection with which the subpoena was issued.

(f) A witness subpoenaed by the RSPA shall be paid the same fees and mileage as would be paid to a witness in a proceeding in the district courts of the United States. The witness fees and mileage shall be paid by the person at whose instance the subpoena was issued.

(g) Notwithstanding the provisions of paragraph (f) of this section, and upon request, the witness fees and mileage may be paid by the RSPA if the RSPA official who issued the subpoena deter-

mines on the basis of good cause shown, that:

(1) The presence of the subpoenaed witness will materially advance the proceeding; and

(2) The person at whose instance the subpoena was issued would suffer a serious hardship if required to pay the witness fees and mileage.

(h) Any person to whom a subpoena is directed may apply no later than 10 days after service thereof, to the person who issued the subpoena to quash or modify it. The application shall contain a brief statement of the reasons relied upon in support of the action sought therein. The person who issued the subpoena may:

(1) Deny the application;

(2) Quash or modify the subpoena; or

(3) Condition denial of the application to quash or modify the subpoena upon the satisfaction of certain just and reasonable requirements. The denial may be summary.

(i) If there is a refusal to obey a subpoena served upon any person under the provisions of this section, the RSPA may request the Attorney General to seek the aid of the United States District Court for any District in which the person is found to compel that person, after notice, to appear and give testimony, or to appear and produce the subpoenaed documents before the RSPA, or both.

[Amdt. 107-3, 41 FR 38170, Sept. 9, 1976, as amended by Amdt. 107-11, 48 FR 2651, Jan. 20, 1983]

§ 107.14 Availability of informal guidance and interpretive assistance.

(a) *Availability of telephonic and Internet assistance.* (1) RSPA has a toll-free, telephonic information line which provides answers to inquiries by small entities and other parties concerning information on and advice about compliance with the hazardous materials regulations, 49 CFR parts 171-180. The information line is staffed from 9:00 a.m. through 5:00 p.m., Eastern time, Monday through Friday, except Federal holidays. When the information line is not staffed, callers may leave a recorded message, which will be answered by the end of the next business day. The telephone numbers for the information line are: 1-800-HMR-4922 (that